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January 19, 1994

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: MM Docket No. 92-266

Dear Mr. Caton:

This is to advise that the undersigned met this date with Merrill Spiegel, Special Assistant to Chairman Hundt, on behalf of The Hearst Corporation.

Points raised during the meeting which relate to MM Docket No. 92-266 are reflected in Hearst's September 30, 1993 Comments.

This letter is being filed as a permissible ex parte communication for inclusion in the Docket.

Sincerely,

  
Dennis E. Eckart  
William K. Keane

DEE/WKK/agz

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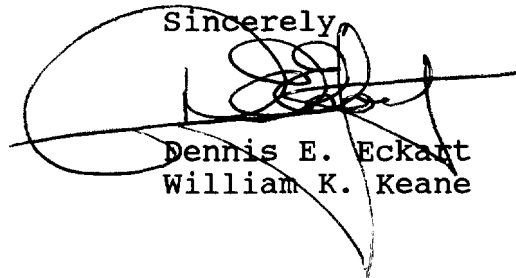
Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: New England Cable News Petition for Exclusivity

Dear Mr. Caton:

This is to advise that the undersigned met this date with Merrill Spiegel, Special Assistant to Chairman Hundt, on behalf of The Hearst Corporation. The meeting dealt with the above-referenced matter. The points raised in the meeting are set forth in the Petition for Exclusivity and in the attachment hereto.

Sincerely,



Dennis E. Eckart  
William K. Keane

DEE/WKK/agz  
Attachment  
cc: Alexandra Wilson

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NEW ENGLAND CABLE NEWS PETITION

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

New England Cable News ("NECN") seeks a ruling from the Commission which would allow NECN to enter into exclusive agreements with cable system affiliates.

The public interest will clearly be served by the requested ruling:

- NECN offers an innovative 24-hour per day, seven day per week cable television service consisting primarily of regional news, weather and sports. It commenced broadcasting in March 1991. The service has received numerous awards (such as "best newscast" in Massachusetts) and critical acclaim (such as for the children's program "Keisha & the Smoke-Free Kids: A Cable in the Classroom Special") in its first two years.
- NECN has a 100 person staff which is producing more hours of original and live programming than any other television outlet in the region.
- NECN is unique in its concentration on substantive, original reporting. NECN has devoted itself to in-depth reporting, thus providing viewers an important alternative to the soundbite, "rip-and-read" reporting so common today.
- Illustrative of its innovation is NECN's plan to inaugurate this year a 90-minute monthly prime-time program to be known as New England Town Hall. This program will provide a forum for discussion of important national and regional issues and will feature an interactive call-in format which will permit analyses and graphic display of viewer reaction both demographically and geographically.
- NECN's ability to reach financial viability has been hampered by the diminished incentives of cable operators to add new programming under the Commission's rate benchmarks and, conversely, the increased incentive operators now have to shift to less regulated sources of revenue such as a la carte offerings and advertising. In this environment, the lack of a proven track record for a new program service like NECN is an impediment to affiliation. And in this environment, NECN's

inability to offer exclusivity to cable affiliates makes its task infinitely more difficult.

- Exclusivity provides operators with the ability to distinguish their service from that of others and gives them the incentive to promote the service, secure in the knowledge that the value of their promotion dollars will not be captured by a competitor who carries the same program.
- Exclusivity is essential if NECN is to reach financial viability as is evidenced by the statement of Edward A. Moller, Vice-President, Greater Media Cablevision, Inc.: "Greater Media's interest in carrying NECN would be greatly enhanced if we could bargain for and obtain program exclusivity." (Petition, Exhibit H).
- Grant of the petition would have no adverse effect on multichannel program distributors. NECN is unscrambled and hence available to all TVRO households. To the best of NECN's knowledge there are only a few SMATV operators, and no MMDS operations in New England. NECN is not considered a financially essential program service by cable operators (witness the fact that so many have thus far declined to take it); this also suggests that a grant of the Petition would not adversely affect the development of competing multi-channel distributors.
- The Commission has recognized that exclusivity is particularly important for the launch of new programming services, indeed observing that "local or regional news channels could be economically infeasible absent an exclusivity agreement." First Report and Order in MM Docket No. 92-265, released April 30, 1993 at paragraph 65 and n. 83.
- One of the principal sponsors of the programming access provisions of the Cable Act, Rep. Tauzin, made very clear in the legislative history that "exclusive programming that is not designed to kill the competition is still permitted." Congressional Record, July 23, 1992 at 6534.

For these reasons, as set forth in greater detail in NECN's Petition, the requested ruling should be granted.